

**REMARKS**

**Summary of the Office Action**

Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,125,554 to *Franck*.

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Franck* in view of U.S. Patent No. 2,824,570 to *Silverman et al.* ("*Silverman*").

Claim 6 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

Claims 2-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims.

**Summary of the Response to the Office Action**

The Non-Final Office Action dated June 23, 2004, has been reviewed and the comments of the U.S. Patent Office have been considered. Applicant amends claims 2-5 into independent form to overcome their objections. Applicant amends claim 6 in order to expedite the prosecution of this Application. Thus, claims 1-7 remain pending and are respectfully submitted for reconsideration by the Examiner.

**All Claims Recite Allowable Subject Matter**

*Rejection Under 35 U. S.C. § 112, second paragraph*

Claims 6 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. Applicant amends claim

6 to expedite the prosecution of this Application. Accordingly, Applicant respectfully requests that the rejection of claim 6 be withdrawn.

*Rejection Under 35 U.S.C. § 102(b)*

Independent claim 1 stands rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by *Franck*. These rejections are respectfully traversed in view of the following comments.

Applicant respectfully submits that *Franck* does not show each and every feature of the present invention. Specifically, *Franck* does not show at least “a sealing member disposed fixedly within said front portion of said air passage,” as recited in independent claim 1.

The Office Action suggests that Fig. 2 of *Franck* shows the claimed features. However, Fig. 2 of *Franck* merely shows a “recess 6 for the reception of a pipe or tubing.” See Fig. 2 and col. 2, line 55 through col. 3, line 1 of *Franck*. While the Office Action describes a “sealing member (at seat 6) disposed fixedly within said front portion,” *Franck* simply shows a recess or void space that can receive a pipe or tubing and not a sealing member *per se*.

As pointed out in MPEP § 2131, a claim is anticipated by a prior art reference only if each and every element as set forth in the claim is found. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051 (Fed. Cir. 1987). Therefore, Applicant respectfully asserts that the rejection under 35 U.S.C. § 102(b) should be withdrawn because *Franck* does not teach or suggest each feature of claim 1. Additionally, claim 7, which depends from independent claim 1, is allowable at least because the base claim is allowable, as well as for the additional features recited therein.

*Rejection Under 35 U. S.C. § 103(a)—Franck in view of Silverman*

Claims 7 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Franck* in view of *Silverman*. Applicant traverses this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met (see *MPEP* §§ 2142-2143). First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill the art, to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art references must teach or suggest all the claim limitations. All three criteria must be met to establish obviousness.

Neither *Franck* nor *Silverman* teaches or suggests at least “a sealing member . . . configured as an annular gasket,” as recited in claim 7. The Examiner admits that *Franck* does not disclose these features. See page 4, lines 2-6 of the Office Action. Applicant respectfully submits that *Silverman* fails to cure the deficiencies identified in *Franck*.

Specifically, *Silverman* does not teach or suggest the “annular gasket seal element 24” stated in the Office Action. *Silverman* actually teaches a counterbore 24 (a void space) located above on top of the topping-off valve. See Fig. 2 and col. 2, line 30 of *Silverman*. Applicant respectfully submits that a counterbore cannot be the equivalent of a sealing member in annular gasket form.

Moreover, the counterbore 24 also does not “engage[] fittingly said inward flange,” as recited in claim 7. The Office Action states that the “annular gasket seal element 24” is “formed to fit [sic] about a flange element 42.” See page 4, lines 7-9 of the Office Action. However, as

seen in Fig. 2 of *Silverman*, these two elements do not even touch one another much less engage each other fittingly. Thus, neither *Franck* nor *Silverman* teaches or suggests at least these features of the present invention. Accordingly, the combination proposed by the Office Action fails to teach or suggest all features of the claimed invention as recited in claim 7.

In view of the above arguments, Applicant respectfully requests that the rejection of claim 7 under 35 U.S.C. § 103 be withdrawn.

**CONCLUSION**

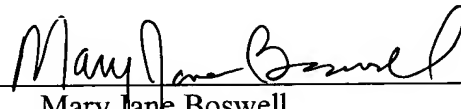
In view of the foregoing amendments and remarks, Applicant respectfully requests the reconsideration and reexamination of this Application and the prompt allowance of pending claims 1-12. Applicant invites the Examiner to contact Applicant's undersigned representative if there are any issues that can be resolved via telephone conference.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

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By:   
Mary Jane Boswell  
Reg. No. 33,652

**Customer No. 009629**  
**MORGAN, LEWIS & BOCKIUS LLP**  
1111 Pennsylvania Avenue, NW  
Washington, DC 20004  
Tel.: 202.739.3000  
Fax: 202.739.3001